

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

LARRY NANCE (Deceased),

Respondent,

v.

MAXON ELECTRIC, INC., and NATIONAL SURETY CORP., c/o FIREMAN'S FUND
INSURANCE CO.,

Appellants.

DOCKET NUMBER WD76587

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: April 8, 2014

APPEAL FROM

The Labor and Industrial Relations Commission

JUDGES

Division One: Martin, P.J., and Pfeiffer and Mitchell, JJ.

CONCURRING.

ATTORNEYS

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V. Megan Murphy
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Attorneys for Respondent,

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Attorneys for Appellants.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

LARRY NANCE (Deceased),)	
)	
Respondent,)	
v.)	
)	OPINION FILED:
MAXON ELECTRIC, INC., and)	April 8, 2014
NATIONAL SURETY CORP., c/o)	
FIREMAN'S FUND INSURANCE CO.,)	
)	
Appellants.)	

WD76587

Labor and Industrial Relations Commission

Before Division One Judges: Cynthia L. Martin, Presiding Judge, and Mark D. Pfeiffer and Karen King Mitchell, Judges

Maxon Electric, Inc., and its insurer National Surety Corp., c/o Fireman's Fund Insurance Co., appeal the order of the Labor and Industrial Relations Commission that was entered in accordance with the mandate of this court following a previous appeal. In the current appeal, Maxon and its insurer argue that the order of the Commission upon remand was entered in error in that: the Respondent's surviving spouse lacked standing to appear before either the Commission or this court; the Commission's order failed to make statutorily required factual findings; and the surviving spouse was not a proper party who could appeal the previous order of the Commission, making that order final and the prior appeal of the matter to this court void.

AFFIRMED.

Division One holds:

All of the issues of the current appeal are controlled by the doctrine of the law of the case. Maxon and its insurer made essentially the same arguments—that the surviving spouse lacked standing because the Commission did not enter a formal order substituting her as the party in interest for her deceased husband and that the approval of a settlement between Maxon and the deceased employee was not in the best interest of the parties—before this court the first time the matter was presented for appeal. Maxon's and the insurer's arguments were rejected by

this court at that time, and this court reversed the Commission's former order with specific instructions to approve the settlement. Maxon's arguments were resubmitted in a motion for rehearing or transfer, which this court denied, and were then submitted to the Missouri Supreme Court in an application for transfer, which the Supreme Court denied. Accordingly this court issued a final mandate to the Commission, and the Commission had no discretion to do anything other than comply with the mandate. Maxon's and the insurer's arguments in the current appeal are thus precluded by the law of the case.

Opinion by: Mark D. Pfeiffer, Judge

April 8, 2014

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.